



## MEMORANDUM

Agenda Item No. 15(A)(1)

TO: Honorable Chairwoman Rebeca Sosa, and  
Members, Board of County Commissioners

DATE: July 16, 2013

FROM: Honorable Harvey Ruvin, Clerk  
Circuit and County Courts

Christopher Agrippa, Division Chief  
Clerk of the Board Division

SUBJECT: Resolution Approving request of  
Property Appraiser to retain  
outside Legal Counsel to file a  
lawsuit against Miami-Dade  
County seeking declaratory  
judgment regarding the powers of  
the Property Appraiser and  
authorizing the Property  
Appraiser to execute an agreement  
for such services, with payment in  
an amount not to exceed  
\$50,000.00 and to exercise any  
extension, renewal and  
cancellation provisions

Ordinance 08-62 adopted by the Miami-Dade Board of County Commissioners provides that the Property Appraiser may submit resolutions, ordinances, or reports related to his duties to the Clerk of the Board Division for placement on the next available agenda of the Miami-Dade County Board of County Commissioners.

Attached for placement on the July 16, 2013, County Commissioners' agenda, is a proposed resolution submitted by the Property Appraiser approving request of Property Appraiser to retain outside Legal Counsel to file a lawsuit against Miami-Dade County seeking declaratory judgment regarding the powers of the Property Appraiser and authorizing the Property Appraiser to execute an agreement for such services, with payment in an amount not to exceed \$50,000.00 and to exercise any extension, renewal and cancellation provisions.

CA/fcd  
Attachment



# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** July 16, 2013

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 15(A)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☒ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 15(A)(1)  
7-16-13

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING REQUEST OF PROPERTY APPRAISER TO RETAIN OUTSIDE LEGAL COUNSEL TO FILE A LAWSUIT AGAINST MIAMI-DADE COUNTY SEEKING DECLARATORY JUDGMENT REGARDING THE POWERS OF THE PROPERTY APPRAISER AND AUTHORIZING THE PROPERTY APPRAISER TO EXECUTE AN AGREEMENT FOR SUCH SERVICES, WITH PAYMENT IN AN AMOUNT NOT TO EXCEED \$50,000.00 AND TO EXERCISE ANY EXTENSION, RENEWAL AND CANCELLATION PROVISIONS

**WHEREAS**, in January 2008, the Miami-Dade County Home Rule Charter was amended to transfer the duties of the County Property Appraiser from a person appointed and supervised by the Mayor to a person elected and subject to recall by the voters; and

**WHEREAS**, Carlos Lopez-Cantera was elected Property Appraiser of Miami-Dade County in August 2012, with his term commencing thereafter in January 2013; and

**WHEREAS**, Property Appraiser Lopez-Cantera asserts that he is an independent constitutional officer pursuant to Article VIII, Section I of the Florida Constitution; and

**WHEREAS**, Property Appraiser Lopez-Cantera desires to obtain a declaration from the Circuit Court of Miami-Dade County that the office to which he was elected is that of an independent constitutional officer; and

**WHEREAS**, filing such an action would require Property Appraiser Lopez-Cantera to name the Board of County Commissioners, as the governing body of Miami-Dade County, and Carlos A. Gimenez, in his official capacity as Mayor of Miami-Dade County, as defendants; and

**WHEREAS**, filing such an action may also require an appeal to the Third District Court of Appeal; and

**WHEREAS**, Article 5, Section 5.06 of the Charter, provides that the County Attorney “shall serve as legal counsel to the Board, Mayor, and all county departments, offices, and agencies”; and

**WHEREAS**, Chapter 2, Article VII, Section 2-73(3) of the Code provides that all legal services shall be provided to the Property Appraiser by the County Attorney’s Office; and

**WHEREAS**, Article 5, Section 5.06 of the Charter authorizes the Board to “employ special counsel for special needs”; and

**WHEREAS**, Property Appraiser Lopez-Cantera requests outside legal counsel for the purpose of bringing a lawsuit against the Board of County Commissioners and the Mayor; and

**WHEREAS**, Property Appraiser Lopez-Cantera has negotiated with the law firm of Gelber Schachter & Greenberg, PA to provide legal services for litigating the referenced lawsuit as set forth in the attached agreement; and

**WHEREAS**, the agreement provides for payment to such firm for attorney’s fees and expenses in an aggregate amount of not to exceed \$50,000.00 and has an initial term of up to two years and a renewal option of up to two years, which may be exercised in the sole discretion of the Property Appraiser,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves Property Appraiser Lopez-Cantera’s request to retain Gelber Schachter & Greenberg, PA as outside legal counsel solely for the purpose of the litigation described in this resolution, pursuant to Section 5.06 of the Miami-Dade County Home Rule Charter. The Board further authorizes

the Property Appraiser to execute the agreement with Gelber Schachter & Greenberg, PA, in substantially the form attached hereto, for and on behalf of the County in an aggregate amount of not to exceed \$50,000.00 and to exercise any extension, renewal and cancellation provisions.

The foregoing resolution was offered by Commissioner  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman  
Lynda Bell, Vice Chair

Bruno A. Barreiro  
Jose "Pepe" Diaz  
Sally A. Heyman  
Jean Monestime  
Sen. Javier D. Souto  
Juan C. Zapata

Esteban L. Bovo, Jr.  
Audrey M. Edmonson  
Barbara J. Jordan  
Dennis C. Moss  
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 16<sup>th</sup> day of July, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Jess M. McCarty

Legal Counsel Services  
Contract No. PA-BW0513-

THIS AGREEMENT made and entered into as of this \_\_\_\_ day of \_\_\_\_\_ by and between Gelber Schachter & Greenberg PA, a corporation organized and existing under the laws of the State of Florida, having its principal office at 1441 Brickell Avenue, Suite 1420, Miami, FL 33131 (hereinafter referred to as the "Law Firm"), and Miami-Dade County Office of the Property Appraiser, having its principal office at 111 N.W. 1st Street, Suite 701, Miami, Florida 33128 (hereinafter referred to as the "PA").

WITNESSETH:

WHEREAS, the Law Firm has offered to provide legal counsel services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); and the requirements of this Agreement; and

WHEREAS, the PA desires to procure from the Law Firm such legal counsel services for the PA, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**ARTICLE 1. DEFINITIONS**

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A).
- b) The words "Contract Date" to mean the date on which this Agreement is effective.
- c) The words "Contract Manager" to mean the Property Appraiser Procurement Manager, or the duly authorized representative designated to manage the Contract.
- d) The word "County" to mean Miami-Dade County.
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Law Firm to the PA's Project Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the PA's Project Manager, and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the PA's Project Manager.
- h) The words "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the PA.
- i) The word "Law Firm" to mean Gelber Schachter & Greenberg and its permitted successors and assigns.
- j) The word "PA" to mean Miami-Dade County Property Appraiser.
- k) The words "Project Manager" to mean the Property Appraiser or the duly authorized representative designated to manage the Project.
- l) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Law Firm.
- m) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- n) The words "Work", "Services", "Program", or "Project" to mean all matters and things required to be done by the Law Firm in accordance with the provisions of this Contract.

**ARTICLE 2. ORDER OF PRECEDENCE**

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, and 2) the Scope of Services (Appendix A).

### ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

### ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives. Upon the exhaustion of funds, Law Firm shall not be precluded from entering into a contract with third parties for services rendered to handle this lawsuit.
- b) The Law Firm shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the PA in all aspects of the Services performed hereunder.
- c) The Law Firm acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the law Firm shall perform the same as though they were specifically mentioned, described and delineated.
- d) The Law Firm shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the PA's Project Manager.
- e) The Law Firm acknowledges that the PA shall be responsible for making all policy decisions regarding the Scope of Services. The Law Firm agrees to provide input on policy issues in the form of recommendations. The Law Firm agrees to implement any



and all changes in providing Services hereunder as a result of a policy change implemented by the PA. The Law Firm agrees to act in an expeditious and fiscally sound manner in providing the PA with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

#### ARTICLE 5. CONTRACT TERM

This Contract is for a period up to, but not to exceed, two (2) years, commencing on the date on the first page. The PA, at its sole discretion, shall have the right to extend this Contract for an additional period up to, but not to exceed, two (2) years and shall notify the Law Firm of the extension in writing thirty (30) days prior to the expiration of the original two (2) year term. This Contract shall terminate upon the exhaustion of all available funds.

#### ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

##### (1) To the PA

###### a) to the Project Manager:

Miami-Dade County Office of the Property Appraiser  
Administration Division  
111 N.W. 1<sup>st</sup> Street, Suite 710  
Miami, FL 33128-1974

Attention: Joseph Ruiz, PA General Counsel  
Phone: (305) 375-3718  
Fax: (305) 375-3024  
E-mail: [joer@miamidade.gov](mailto:joer@miamidade.gov)

and,

###### b) to the Contract Manager:

Miami-Dade County Office of the Property Appraiser  
Administration Division  
111 N.W. 1<sup>st</sup> Street, Suite 710  
Miami, FL 33128-1974

Attention: JC Romano, Property Appraiser Procurement Manager  
Phone: (305) 375-4262  
Fax: (305) 375-3024  
E-mail: [jromano@miamidade.gov](mailto:jromano@miamidade.gov)

##### (2) To the Contractor

Gelber Schachter & Greenberg PA  
1441 Brickell Avenue, Suite 1420  
Miami, Florida 33131

Attention: Mr. Gerald Greenberg  
Phone: (305) 728-0953

Fax: (305) 728-0951

E-Mail: [ggreenberg@gsgpa.com](mailto:ggreenberg@gsgpa.com)

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

**ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED**

The Law Firm warrants that it has reviewed the PA's requirements and has asked such questions and conducted such other inquiries as the Law Firm deemed necessary in order to determine the price the Law Firm will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall conform to Appendix B-- Price Schedule.

With respect to travel costs and travel related expenses, the Law Firm agrees to adhere to Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous cost-and fees. The PA shall not be liable for any such expenses that have not been approved in advance, in writing, by the PA.

**ARTICLE 8. PRICING**

Prices shall remain firm and fixed for the term of the Contract, including any option or extension periods.

**ARTICLE 9. METHOD AND TIMES OF PAYMENT**

In consideration of the services to be rendered by the Law Firm, PA hereby agrees to remit the sum of \$50,000, via check or wire transfer, to the Gelber Schachter & Greenberg, P.A. Trust Account as an initial retainer. If paid by wire transfer, the account information is as follows: Gelber Schachter & Greenberg, P.A. Trust Account, Sabadell United Bank, Miami, Florida, ABA Routing No. 067009646, Account No. 5000001405. The deposit retainer will be applied to any fees, costs or charges authorized in the Appendix-B, Price Schedule on a monthly basis. This application will be accomplished by transferring the amount due from the Law Firm's trust account into its operating account. The PA shall approve all monthly transfers prior to the Law Firm's execution of the transfer. Under no circumstances shall the Law Firm transfer any funds without prior approval from the PA.

Disputes regarding the payment of obligations shall be submitted in writing by the Project Manager to the Law Firm no later than sixty (60) days after the date on which the proper invoice was received by the PA.

Invoices and associated back-up documentation shall be submitted in duplicate by the Law Firm to the PA as follows:

Miami-Dade County Office of the Property Appraiser  
Administration Division  
111 N.W. 1st Street, Suite 710  
Miami, FL 33128-1974

Attention: Joseph Ruiz, PA General Counsel  
Phone: (305) 375-3718  
Fax: (305) 375-3024  
E-mail: [joer@miamidadegov](mailto:joer@miamidadegov)

The PA may at any time designate a different address and/or contact person by giving written notice to the other party.

#### ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Law Firm shall indemnify and hold harmless the PA and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the PA or its officers, employees, agents and instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Law Firm or its employees, agents, servants, partners principals or subcontractors. The Law Firm shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the PA, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Law Firm expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Law Firm shall in no way limit the responsibility to indemnify, keep and save harmless and defend the PA or its officers, employees, agents and instrumentalities as herein provided.

Upon PA's notification, the Law Firm shall furnish to the PA, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Law Firm as required by Florida Statute 440.
2. Public Liability Insurance on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County Property Appraiser must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County Property Appraiser is 111 N.W. 1st Street, Suite 710, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.

And

Miami-Dade County must also be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County Property Appraiser is 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.

3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
4. Professional Liability Insurance in an amount not less than \$250,000.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Law Firm. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as

to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of Risk Management.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing Insurance carrier will endeavor to mail ten (10) day written advance notice to the certificate holder. In addition, the Law Firm hereby agrees not to modify the insurance coverage without ten (10) days written advance notice to the PA.

**NOTE: THE PA CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.**

Compliance with the foregoing requirements shall not relieve the Law Firm of this liability and obligation under this section or under any other section in this Agreement.

The Law Firm shall be responsible for ensuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the PA. If insurance certificates are scheduled to expire during the contractual period, the Law Firm shall be responsible for submitting new or renewed insurance certificates to the PA at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the PA shall suspend the Contract until such time as the new or renewed certificates are received by the PA in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the PA may, at its sole discretion, terminate this contract.

#### **ARTICLE 11. MANNER OF PERFORMANCE**

- a) The Law Firm shall provide the Services described herein in a competent and professional manner satisfactory to the PA in accordance with the terms and conditions of this Agreement. The PA shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Law Firm in all aspects of the Services. At the request of the PA, the Law Firm shall promptly remove from the project any Law Firm's employee, subcontractor, or any other person performing Services hereunder. The Law Firm agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Law Firm.
- b) The Law Firm agrees to defend, hold harmless and indemnify the PA and County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the PA or County, occurring on account of, arising from or in connection with the removal and replacement of any Law Firm's personnel performing services hereunder at the behest of the PA. Removal and replacement of any Law Firm's personnel as used in this Article shall not require the termination and or demotion of such law Firm's personnel.
- c) The Law Firm agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is

hereinafter made. The Law Firm agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the PA, should the PA make a determination, in its sole discretion that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

- d) The Law Firm warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Law Firm shall at all times cooperate with the PA and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Law Firm shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

#### ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

All employees of the Law Firm shall be considered to be, at all times, employees of the Law Firm under its sole direction and not employees or agents of the PA or County. The Law Firm shall supply competent employees. PA may require the Law Firm to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment is not in the best interest of the PA.

#### ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Law Firm is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the PA or County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Law Firm's sole direction, supervision and control. The Law Firm shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Law Firm's relationship and the relationship of its employees to the PA or County shall be that of an independent contractor and not as employees and agents of the PA or County.

The Law Firm does not have the power or authority to bind the PA or County in any promise, agreement or representation other than specifically provided for in this Agreement.

#### ARTICLE 14. AUTHORITY OF THE PA'S PROJECT MANAGER

- a) The Law Firm hereby acknowledges that the PA's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Law Firm shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Law Firm agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in

writing by the Project Manager as soon thereafter as is practicable.

- c) The Law Firm must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Law Firm and the Project Manager are unable to resolve the difference, the Law Firm may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the PA or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the PA's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the PA within 10 days of the occurrence, event or act out of which the dispute arises.
- e) The PA may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Law Firm's performance of any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the PA participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Law Firm to the PA for a decision, together with all evidence and other pertinent information in regard to such question, in order that a fair and impartial decision may be made. Whenever the PA is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of the Article, such action shall be fair and impartial when exercised or taken. The PA, as appropriate, shall render a decision in writing and deliver a copy of the same to the Law Firm. Except as such remedies may be limited or waived elsewhere in the Agreement, Law Firm reserves the right to pursue any remedies available under law after exhausting the provisions of the Article.

#### ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Law Firm, the PA or County may, at its expense, elect to participate in the defense if the PA or County should so choose. Furthermore, the PA or County may at its own expense defend or settle any such claims if the Law Firm fails to diligently defend such claims, and thereafter seek indemnity for costs from the Law Firm.

#### ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Law Firm shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Law Firm and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until the completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

#### ARTICLE 17. AUDITS

The PA, or its duly authorized representatives, shall until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Law Firm's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the PA. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement. The right of access is not limited to the required record retention period set forth herein, but shall last as long as the records are retained.

Pursuant to Section 2-481 of the Code of Miami-Dade County, the Commission Auditor shall have access to all of the Law Firm's financial and performance related records, property and equipment purchased in whole or in part with government funds. The Law Firm agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

#### ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Law Firm wishes to substitute personnel for the key personnel identified by the Law Firm's proposal, the Law Firm must notify the PA in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

#### ARTICLE 19. CONSENT OF THE PA REQUIRED FOR ASSIGNMENT

The Law Firm shall not assign, transfer, convey or otherwise dispose of the Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the PA.

#### ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Law Firm will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Law Firm; and the Law Firm will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Law Firm. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Law Firm.
- b) The Law Firm, before making any subcontract for any portion of the services, will state in writing to the PA the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the PA may require. The PA will have the right to require the Law Firm not to award any subcontract to a person, firm or corporation disapproved by the PA.

- c) Before entering into any subcontract hereunder, the Law Firm will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the PA, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the PA that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the PA that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e) The PA shall have the right to withdraw its consent to a subcontract if it appears to the PA that the subcontract will delay, prevent, or otherwise impair the performance of the Law Firm's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the PA's and PA's proprietary and confidential information. Law Firm shall furnish to the PA copies of all subcontracts between Law Firm and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the PA in the event the PA finds the Law Firm in breach of this Contract, permitting the PA to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the PA to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the PA to any subcontractor hereunder as more fully described herein.

#### ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Law Firm understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the PA were provided to the Law Firm for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the PA makes no representations or guarantees; and the PA shall not be responsible for the accuracy of the assumptions presented; and the PA shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Law Firm. The Law Firm accepts all risk associated with using this information.

#### ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

#### ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

Either the PA or the Law Firm may terminate the Agreement at any time for any reason, subject on the Law Firm's part only to the Florida Rules of Professional Responsibility. Without limiting the foregoing, the Law Firm may withdraw from the Agreement if either continuing with it would be, in the Law Firm's professional opinion, unlawful or unethical or the Law Firm's invoices are not paid in accordance with the Agreement. In the event the Agreement is terminated by either party, or in the event of a withdrawal by the Law Firm, the Law Firm will be compensated as stated in the payment Articles herein for all unpaid Services completed in accordance with the Agreement up to the Effective Termination Date. Notwithstanding this paragraph:



- a) If the Law Firm attempts to meet its contractual obligations with the PA through fraud, misrepresentation or material misstatement, it may be debarred from PA or Miami-Dade County contracting for up to five (5) years in accordance with the Miami-Dade County debarment procedures.
- b) In the event that the PA exercises its right to terminate this Agreement, the Law Firm shall, upon receipt of such notice, unless otherwise directed by the PA:
  - i. stop work on the date specified in the notice ("the Effective Termination Date");
  - ii. take such action as may be necessary for the protection and preservation of the PA's materials and property; and
  - iii. take no action which will increase the amounts payable by the PA under this Agreement.
- c) All compensation pursuant to this Article is subject to audit.

#### ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default shall mean a breach of this Agreement by the Law Firm. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:
  - i. the Law Firm has not delivered Deliverables on a timely basis;
  - ii. the Law Firm has refused or failed to supply enough properly skilled staff personnel;
  - iii. the Law Firm has failed to make prompt payment to subcontractors or suppliers for any Services;
  - iv. the Law Firm has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Law Firm's creditors, or the Law Firm has taken advantage of any insolvency statute or debtor/creditor law or if the Law Firm's affairs have been put in the hands of a receiver;
  - v. the Law Firm has failed to obtain the approval of the PA where required by this Agreement;
  - vi. the Law Firm has failed to provide "adequate assurances" as required under subsection b below;
  - vii. the Law Firm has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the PA, reasonable grounds for uncertainty exist with respect to the Law Firm's ability to perform the Services or any portion thereof, the PA may request that the Law Firm, within the timeframe set forth in the PA's request, provide adequate assurances to the PA, in writing, of the Law Firm's ability to perform in accordance with the terms of this Agreement. Until the PA receives such assurances, the PA may request an adjustment to the compensation received by the law Firm for portions of the Services which the Law Firm has not performed. In the event that the Law Firm fails to provide to the PA the requested assurances within the prescribed timeframe, the PA may:

- i. treat such failure as a repudiation of this Agreement; and
  - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c) In the event the PA shall terminate this Agreement for default, the PA or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

#### ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE/ TERMINATION

If an Event of Default occurs in the determination of the PA, the PA may so notify the Law Firm ("Default Notice"), specifying the basis for such default, and advising the Law Firm that such default must be cured immediately or this Agreement with the PA may be terminated. Notwithstanding, the PA may, in its sole discretion, allow the Law Firm to rectify the default to the PA's reasonable satisfaction within a thirty (30) day period. The PA may grant an additional period of such duration as the PA shall deem appropriate without waiver of any of the PA's rights hereunder, so long as the Law Firm has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the PA prescribes. The default notice shall specify the date the Law Firm shall discontinue the Services upon the Termination Date.

#### ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Law Firm shall be liable for all damages resulting from the default. The Law Firm shall also remain liable for any liabilities and claims related to the Law Firm's default, including but not limited to:

- a) The difference between the cost associated with procuring Services hereunder and the amount actually expended by the PA for reprourement of Services, including procurement and administrative cost; and
- b) Such other direct damages.

The Law Firm shall also remain liable for any liabilities and claims related to the Law Firm's default. The PA may also bring any suit or proceeding for specific performance or for an injunction.

#### ARTICLE 27. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the PA in connection with the Services performed under this Agreement, made or developed by the Law Firm or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the PA holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the PA, be used by the Law Firm or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the PA, unless required by law. In addition to the foregoing, all PA employee information and PA financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Law Firm nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the PA. Additionally, the Law Firm expressly agrees to be bound by and to defend, indemnify and hold harmless the PA, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

- b) The Law Firm shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the PA in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Law Firm agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the PA shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the PA, upon the completion of the Services performed hereunder, the Law Firm shall immediately turn over to the PA all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Law Firm or its employees, agents, subcontractors or suppliers without the prior written consent of the PA. A certificate evidencing compliance with this provision and signed by an officer of the Law Firm shall accompany such materials.

#### ARTICLE 28. INSPECTOR GENERAL REVIEWS

##### *Miami-Dade County Inspector General Review*

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provide below.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts. The Miami-Dade Inspector General is authorized and empowered to review past, present and proposed County and Public health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract.

Upon written notice to the Law Firm from the Inspector General, the Law Firm shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General shall have the right to inspect and copy all documents and records in the Law Firm's possession custody or control which, in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involves cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

#### ARTICLE 29. VENDOR REGISTRATION/CONFLICT OF INTEREST

##### a) Vendor Registration

The Law Firm shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-

Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. *Miami-Dade County Ownership Disclosure Affidavit*  
(Section 2-8.1 of the County Code)
2. *Miami-Dade County Employment Disclosure Affidavit*  
(Section 2-8-1(d)(2) of the County Code)
3. *Miami-Dade Employment Drug-free Workplace Certification*  
(Section 2-8.1.2(b) of the County Code)
4. *Miami-Dade Disability and Nondiscrimination Affidavit*  
(Section 2-8.1.5 of the County Code)
5. *Miami-Dade County Debarment Disclosure Affidavit*  
(Section 10.38 of the County Code)
6. *Miami-Dade County Vendor Obligation to County Affidavit*  
(Section 2-8.1 of the County Code)
7. *Miami-Dade County Code of Business Ethics Affidavit*  
(Section 2-8.1(f) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. *Miami-Dade County Family Leave Affidavit*  
(Article V of Chapter 11 of the County Code)
9. *Miami-Dade County Living Wage Affidavit*  
(Section 2-8.9 of the County Code)
10. *Miami-Dade County Domestic Leave and Reporting Affidavit*  
(Article 8, Section 11A-60 11A-67 of the County Code)
11. *Subcontracting Practices*  
(Ordinance 97-35)
12. *Subcontractor /Supplier Listing*  
(Section 2-8.8 of the County Code)
13. *Environmentally Acceptable Packaging*  
(Resolution R-739-92)
14. *W-9 and 8109 Forms*  
(as required by the Internal Revenue Service)
15. *FEIN Number or Social Security Number*  
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
  - Identification of individual account records
  - To make payments to Individual/Contractor for goods and services provided to Miami-Dade County
  - Tax reporting purposes
  - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records
16. *Office of the Inspector General*  
(Section 2-1076 of the County Code)
17. *Small Business Enterprises*  
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 48 of the Code of Federal Regulations.
18. *Antitrust Laws*  
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest

Section 2-11.1(d) of Miami-Dade County Code requires that any Miami-Dade County or PA employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or the PA or any person or agency acting for Miami-Dade County or the PA, competing or applying for a contract, must first request a conflict of interest opinion from the Miami-Dade County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or PA or any person or agency acting for Miami-Dade County or PA. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 30. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Law Firm agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as

- amended and applicable to this Contract.
- b) Environmental Protection Agency (EPA), as applicable to this Contract.
  - c) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, ancestry, age, sex, pregnancy, national origin, sexual orientation, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other terms of compensation; and selection for training, including apprenticeship. The Law Firm agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.
  - d) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
  - e) Miami-Dade County Code Section 10-38 "Debarment".
  - f) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
  - g) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Law Firm shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in good faith determination of the Law Firm, be unethical or constitute a violation of any law or regulation to which Law Firm is subject, including but not limited to laws and regulation requiring that Law Firm conduct its operations in a safe and sound manner.

#### **ARTICLE 31. NONDISCRIMINATION**

During the performance of this Contract, Law Firm agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Law Firm attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Law Firm or any owner, subsidiary or other firm affiliated with or related to the Law Firm is found by the responsible enforcement agency or the PA to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Law Firm submits a false affidavit pursuant to this Resolution or the Law Firm violates the Act or the Resolution during the term of this Contract, even if the Law Firm was not in violation at the time it submitted its affidavit.

#### **ARTICLE 32. CONFLICT OF INTEREST**

The Law Firm represents that:

- a) No officer, director, employee, agent, or other consultant of the PA or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with this Agreement.
- b) There are no undisclosed persons or entities interested with the Law Firm in this Agreement. This Agreement is entered into by the Law Firm without any connection with

any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the PA, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

- i) is interested on behalf of or through the Law Firm directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
  - ii) is an employee, agent, advisor, or consultant to the Law Firm or to the best of the Law Firm's knowledge any subcontractor or supplier to the Law Firm.
- c) Neither the Law Firm nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Law Firm shall have an interest which is in conflict with the Law Firm's faithful performance of its obligation under this Agreement; provided that the PA, in its sole discretion, may consent in writing to such a relationship, provided the Law Firm provides the PA with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the PA's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Law Firm has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Law Firm shall promptly bring such information to the attention of the PA's Project Manager. Law Firm shall thereafter cooperate with the PA's review and investigation of such information, and comply with the instructions Law Firm receives from the Project Manager in regard to remedying the situation.

#### ARTICLE 33. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Law Firm without the express consent of the PA:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the PA, or the Work being performed hereunder, unless the Law Firm first obtains the written approval of the PA. Such approval may be withheld if for any reason the PA believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior approval and instruction of the PA; and
- c) Except as may be required by law, the Law Firm and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Law Firm or such parties has been approved or endorsed by the PA.

#### ARTICLE 34. BANKRUPTCY

The PA reserves the right to terminate this contract, if, during the term of any contract the Law Firm has with the PA; the Law Firm becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Law Firm under federal bankruptcy law or any state insolvency law.

**ARTICLE 35. GOVERNING LAW**

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

**ARTICLE 36. SURVIVAL**

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Law Firm and the PA under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

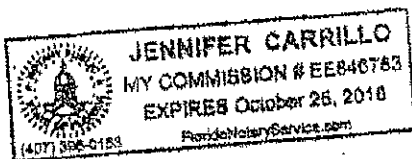
By: [Signature]  
 Name: Gerald Greenberg  
 Title: Shareholder Partner / V.P.  
 Date: July 3, 2013  
 Attest: [Signature]  
 Corporate Secretary/Notary Public

Miami-Dade County Property Appraiser

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Attest: \_\_\_\_\_  
 Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form  
and legal sufficiency



Assistant County Attorney

**SCOPE OF SERVICES****Appendix A****SECTION 1: INTRODUCTION/BACKGROUND**

In January 2008, the Miami-Dade County Home Rule Charter was amended to transfer the duties of the County Property Appraiser from a person appointed and supervised by the Mayor to a person elected and subject to recall by the voters. In August 2012, Carlos Lopez-Cantera was elected Property Appraiser of Miami-Dade County. His term commenced in January 2013.

Property Appraiser Lopez-Cantera asserts that he is an independent constitutional officer pursuant to Article VIII, Section 1 of the Florida Constitution. Property Appraiser Lopez-Cantera desires to obtain a declaration from the Circuit Court of Miami-Dade County that the office to which he was elected is that of an independent constitutional officer. Filing such an action would require Property Appraiser Lopez-Cantera to name the Board of County Commissioners, as the governing body of Miami-Dade County, and Carlos A. Gimenez, in his official capacity as Mayor of Miami-Dade County, as defendants.

Article 5, Section 5.06 of the Charter, provides that the County Attorney "shall serve as legal counsel to the Board, Mayor, and all county departments, offices, and agencies". Chapter 2, Article VII, Section 2-73(3) of the Code provides that all legal services shall be provided to the Property Appraiser by the County Attorney's Office. Lastly, Article 5, Section 5.06 of the Charter authorizes the Board to "employ special counsel for special needs".

Consequently, Property Appraiser Lopez-Cantera requests outside legal counsel for the purpose of bringing a lawsuit against the Board of County Commissioners and Mayor.

**SECTION 2: REQUIREMENTS****A. Minimum Requirement**

All attorneys of the Law Firm directly involved in the representation of the PA must be duly licensed and in good standing to practice before the judicial forum, court, board, or tribunal before which they will appear or practice on behalf of the PA.

**B. Preferred Qualifications**

The Law Firm shall maintain such qualifications to satisfaction of the PA as follows:

The Law Firm should, at a minimum, possess: a) a strong working knowledge of the duties and functions of the PA required under Florida's Constitution and general laws of the State; b) a strong working knowledge of Florida Constitutional Law and the Miami-Dade County Charter and ordinances; and c) the ability to provide legal and legislative research upon request.

**SECTION 3: SERVICES TO BE PROVIDED**

Under the terms of the Agreement, Law Firm shall provide representation to the PA before the Circuit Court of Miami-Dade County, through the Florida Third District Court of Appeal, if necessary, with regard to the matter set forth in Section 1 of the Scope of Services (Appendix A). The Law Firm shall consult with the PA on all legal issues set forth in Section 1 of the Scope of Services (Appendix A) and in other matters which may be requested by the PA.



**PRICE SCHEDULE**  
**Appendix B**

Rate Structure:

The following are the maximum hourly rates for providing the services as stated in the Scope of Services (Appendix A), for the term of the contract, including any option or extension periods. The agreement provides for payment to such firm for attorney's fees and expenses in an aggregate amount of not to exceed \$50,000.00.

Position	Maximum Hourly Rates
Senior Counsel	
Dan Gelber	\$ 350.00
Gerald E. Greenberg	\$ 350.00
Adam Schachter	\$ 350.00
Associate Counsel(s)	
Various/TBD	\$ 295.00
Administrative/Other Support	
Diane Gonzalez, TBD	\$ 150.00

## Notes:

1. The Maximum Hourly Rates shall not include out-of-pocket expenses (i.e. employee travel, per diem, and miscellaneous costs and fees). Such expenses require prior PA approval.

The Law Firm will bill the PA for the costs incurred in connection with the Law Firm's representation. For this project, cost could include, but not be limited to serving and filing fees; express delivery services; travel expenses; copying expenses; trial, hearing, and deposition transcript fees; and fees for audio and visual presentation of evidence in hearing trials. Costs also include any necessary fees for investigators, court reporters, expert witnesses, accountants, and other such services.